

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Mauricio Antonio Alvarenga,
)
)
Gladys Fuentes,
)
Petitioners,
)
v.
)
)
Denis Riordan,
District Director, United States
Citizenship and Immigration Service
)
)
Eduardo Aguirre, Jr.,
)
Director, United States Citizenship and
Immigration Service
)
)
Michael Chertoff,
)
Secretary, Department of Homeland
Security
)
)
Respondents.
)
)

Case File No. _____

Immigration File No.: A78 634 062

05 11390 JLT

MAGISTRATE JUDGE 2 BC

RECEIPT # _____
AMOUNT \$ 250
SUMMONS ISSUED YES
LOCAL RULE 4.1 _____
WAIVER FORM _____
MCF ISSUED _____
BY DPTY. CLK. KOWA
DATE 6/30/05

PETITION FOR WRIT OF MANDAMUS

Mr. Mauricio Antonio Alvarenga hereby petitions for a writ of mandamus to the United States District Court, District of Massachusetts from the United States Citizenship and Immigration Service's ("USCIS") failure to adjudicate the I-130 petition filed on his behalf.

I. Statement of Jurisdiction

This Court has jurisdiction under the Administrative Procedures Act, 5 U.S.C. § 551 et seq. and the Mandamus Act, 28 U.S.C. § 1361.

II. Question Presented

Whether the USCIS should be ordered to adjudicate the I-130 petition where it has been pending for over seven months and it is a crucial step in determining the Petitioner's deportation status.

III. Relief Sought

The Petitioner respectfully requests that the Court order the USCIS to adjudicate the pending I-130 filed on his behalf.

IV. Summary of Argument

The court should grant the mandamus action because the Petitioners show that USCIS has a clear duty to adjudicate I-130 petitions in a timely manner. The failure of the USCIS to adjudicate the petition within seven months is a breach of that duty where the Petitioner is prima facie available for the visa and the USCIS states that similar petitions will be adjudicated within six months. Further, irreparable harm will occur to the Petitioners if the mandamus is not granted in the forms of removal from the United States, denial of reentry for ten years, emotional distress, and financial hardship.

V. Statement of Facts

Petitioner, Mauricio Antonio Alvarenga, married Gloria Fuentes on August 16, 2003. (Ex. 1.) Mrs. Fuentes is a United States citizen by birth. Their only child, Armani, was born in the United States on March 31, 2001. To support his family, Mr. Alvarenga worked as a shuttle bus driver for Mt. Auburn Hospital in Cambridge, Massachusetts. Mr. Alvarenga pled guilty to a count of assault and battery with a dangerous weapon on March 15, 2004. (Ex. 2.) Subsequently, the Department of Homeland Security took him into custody.

On July 15, 2004, the USCIS released a public notice stating that they will adjudicate I-130 petitions "...within six months if a visa is immediately available upon filing." (Public Notice at 1.) On September 22, 2004, Counsel informed the Court that an I-130 was being prepared on the Petitioner's behalf and that it was the Petitioner's intent to apply for an

adjustment of status, pursuant to INA § 245(a) along with a waiver pursuant to INA § 212(h).¹ The USCIS publishes the Receipt Notice dates that they are currently processing on their website. (USCIS Processing Dates at 1.) According to the website, it appeared that the wait time for I-130 petition adjudication was approximately three months. Further, since the I-130 petition is based on Mr. Alvarenga's marriage to a U.S. citizen, a visa would be immediately available if the petition is approved. The Court then continued the matter until November.

The Petitioner's wife filed an I-130 petition on his behalf, which the USCIS received on November 8, 2004. (Ex. 3.) The I-130 petition is prima facie approvable because Mr. Alvarenga married Mrs. Fuentes before deportation proceedings began, he has a son as a result of that marriage, and at no point during their marriage were the Petitioners legally separated.

By November 11, 2004, the USCIS had not adjudicated the Petitioner's application. In order to permit the USCIS additional time to adjudicate the pending I-130, the Petitioner requested a continuance. The Petitioner stated that the sole reason for the continuance was due to the USCIS's failure to adjudicate the I-130 petition. The Court denied the Petitioner's request. (I.J. at 2.) As the I-130 was not yet adjudicated, the Petitioner was ineligible to apply for Adjustment of Status under INA § 245(a) with a waiver under INA § 212(h). The Immigration Judge then ordered him removed from the United States. (*Id.*)

Petitioner then filed an administrative appeal to the Board of Immigration Appeals ("the Board"). On May 23, 2005, the Board found that the Petitioner was removable and had not established that he merits relief from removal. (B.I.A. at 1.) The Board affirmed the underlying Immigration Judge's decision and dismissed the appeal. *Id.* As of June 30, 2005, over seven months after filing the I-130, the USCIS has still not adjudicated the petition.

¹ Mr. Alvarenga was, at the time the I-130 petition was filed, lawfully present in the United States. As such, he qualified for Adjustment of Status under INA § 245(a).

Mr. Alvarenga's order of removal is administratively final, and therefore, he is subject to being physically removed from the United States. Petitioner's counsel wrote a letter to the USCIS to request an update of the status of the petition and has received no response. (Counsel letter, Feb. 24, 2005) To date, the Petitioner has not received notice of the status of his I-130 petition except for a Notice of Action indicating that it had been transferred to the Boston Office to "speed processing." (Ex. 4.)

VI. Argument

THE COURT SHOULD ORDER A WRIT OF MANDAMUS TO COMPEL THE USCIS TO DECIDE THE PETITIONER'S PENDING I-130 APPLICATION BECAUSE THEY HAVE A DUTY TO ADJUDICATE THE PETITION IN A TIMELY MANNER AND, TO DATE, HAVE NOT DONE SO.

A. General principles and standard of review

The court has the authority to issue a writ of mandamus to compel an administrative agency to act according to the duty ascribed to it by statute. In an action of mandamus, district courts have the original jurisdiction to compel an officer of the United States or any of its agencies to perform a duty owed to the petitioner. 28 U.S.C. § 1361. Specifically in immigration cases, a district court may use its mandamus jurisdiction to compel the agency to adjudicate applications where they have a clear duty to do so. *Iddir v. INS*, 301 F.3d 492, 499 (7th Cir. 2002) (ruling that mandamus jurisdiction is proper where the INS refuses to adjudicate an application despite having a clear duty to do so). Mandamus actions are used only to compel ministerial non-discretionary duties of administrative officers. *Panama Canal Co. v. Grace Line Co., Inc.*, 356 U.S. 309, 318 (1958). While discretionary decisions by the agency are not reviewable under 28 U.S.C. § 1361, the decision as to whether to adjudicate a visa application is not discretionary. 5 U.S.C. § 555(b).

Generally, a party seeking mandamus must show “(a) some special risk of irreparable harm, and (b) clear entitlement to the relief requested.” *In re Recticel Foam Corp.*, 859 F.2d 1000, 1005 (1st Cir. 1988).

B. Mandamus action is necessary and a proper remedy in this case

1. USCIS owes a clear duty to the Petitioners to adjudicate the petition in a reasonable time

The Petitioners are entitled to receive an adjudication of the I-130 petition. In order for mandamus jurisdiction to apply, the petitioners must show that they are owed a duty by the respondents. *Davis Associates, Inc. v. Secretary, Dept. of Housing and Urban Development*, 498 F.2d 385, 388 (1st Cir. 1974). While the decision to grant or deny the petition is wholly discretionary, 8. U.S.C. § 1255(a), actually adjudicating the petition is not. *Bartolini v. Ashcroft*, 226 F. Supp. 2d 350, 353 n.3 (D. Conn. 2002). The duty to adjudicate I-130 petitions is spelled out in the Administrative Procedures Act, 5 U.S.C. § 555(b): “[w]ith due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.” To determine what a “reasonable time” is, courts look at what caused the delay and the extent that the agency participated in creating the delay. *Bartolini*, 266 F. Supp. 2d at 354 (quoting *Zheng v. Reno*, 166 F. Supp. 2d 875, 880 (S.D.N.Y. 2001).); *But see Asare v. Ferro*, 999 F. Supp. 657, 659 (D. Md. 1998) (mandamus does not lie when the petitioner did not demonstrate that INS had a duty to adjudicate a petition on or before a certain date).

In the present case, though the USCIS does not have a statutorily defined timeline to which they must adhere, it regularly publishes a list of the cases that it is processing by the date of the receipt notice on its website. U.S. Citizenship and Immigration Services, *U.S. Citizenship and Immigration Services Vermont Service Center Processing Dates Posted June 09, 2005*, at

<https://egov.immigration.gov/cris/jsps/Processtimes.jsp?SeviceCenter=Vermont>. The website warns that, “due to the high workload, most of the time your case is pending we will be processing cases that were filed earlier than yours. This chart tells you which cases the Service Center is processing...” *Id.* As of June 9, 2005, the Vermont Service Center, where the petition was initially sent, was processing I-130 petitions for alien relatives with a receipt notice date of April 2, 2005, more than five months after the Petitioner received their notice. It is unreasonable that these applications are being adjudicated before Mrs. Fuentes’ petition given that the I-130 is prima facie approvable² and all of the necessary documentation was submitted.

Additionally, the petition was moved to the Boston District Office to “speed processing” (Ex. 4). According to the Public Notice to customers with a pending I-130 Petition dated July 15, 2004, the USCIS promises to “...adjudicate your Form I-130 petition ...within six months if a visa is immediately available upon filing.” (Public Notice at 1.) Therefore, it would be fair to assume that “speeding” the processing would mean that the petition would be adjudicated far within the six months the Agency promises in the Public Notice. Yet, seven months later the petition has not been adjudicated. Therefore, the USCIS owes a clear duty to the Petitioners to adjudicate the petition within a reasonable time of six months or less and has failed to do so.

2. *A mandamus would prevent irreparable harm to Mr. Alvarenga and Mrs. Fuentes.*

Granting the mandamus would prevent irreparable harm to Mr. Alvarenga. Without the mandamus, the USCIS could delay processing the request until Mr. Alvarenga is removed from the United States and leave him with no other avenues of relief. Once he is removed, he will be required to wait up to ten years before reentering. INA § 212(a)(9)(A)(i). He will be forced to

² An immigrant visa may be granted to “an immediate relative as such upon satisfactory proof, under regulations prescribed under this Act, that the applicant is entitled to ... immediate relative status.” INA § 224, 8 U.S.C. § 1204. Only marriages entered into after exclusion or deportation proceedings have begun are presumed fraudulent and the presumption can only be overcome by “clear and convincing” evidence. *Matter of Arthur*, 20 I. & N. Dec. 475, 479 (B.I.A. 1992); 8 U.S.C. § 1255(e)

leave behind his U.S. citizen wife and only child despite the fact that he is prima facie eligible for the visa.

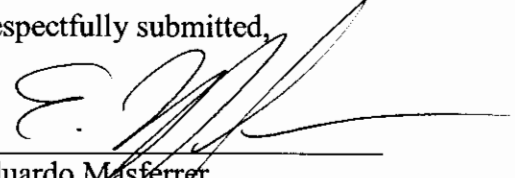
Not only will the cost to Mr. Alvarenga and his family will be emotional, it will also be financial. They will be faced with the emotional toll of spending ten years apart, even though he would otherwise be eligible to be a permanent resident. Further, removal is well known as having harsh consequences including loss of family, friends, and livelihood forever plus banishment to a country that would surely result in poverty and possibly prosecution. *Bridges v. Wixon*, 326 U.S. 135, 164 (1945); *Padilla-Agustin v. INS*, 21 F.3d 970, 978 (9th Cir. 1994). The harm would be exacerbated by the fact that Mr. Alvarenga already has a paying job secured for him once he is released from custody. (Ex. 5) His potential ten-year absence would deny his wife of the emotional and financial support of a husband and leave a son without access to his father. The negative impact on society due to a father's absence from the home is well documented. See Tiffany J. Jones, *Neglected by the System: A Call for Equal Treatment for Incarcerated Fathers and Their Children—Will Father Absenteeism Perpetuate the Cycle of Criminality?*, 39 Cal. W. L. Rev. 87 (2002); Solangel Maldonado, *Beyond Economic Fatherhood: Encouraging Divorced Fathers to Parent*, 153 U. Pa. L. Rev. 921 (2005). Thus, denying the mandamus would cause irreparable harm.

VII. Conclusion

For the reasons set forth in this petition, the Petitioners respectfully request that this Court order the USCIS to adjudicate the aforementioned I-130 petition.

Dated: June 30, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Masferrer', is written over a horizontal line.

Eduardo Masferrer
Masferrer & Hurowitz, PC
6 Beacon Street, Suit 720
Boston, Massachusetts 02108
(617) 531-0135

Attorney for Petitioner

Exhibit 1



REGISTRY DIVISION OF THE CITY OF BOSTON

COUNTY OF SUFFOLK, COA

EAST OF MASSACHUSETTS, UNITED STATES OF AMERICA

Certificate R No 6253

I, the undersigned, hereby certify that I hold the office of
City Registrar of the City of Boston and I certify the following facts appear on the
records of Births, Marriages and Deaths kept in said City as required by law.

The Commonwealth of Massachusetts
DEPARTMENT OF PUBLIC HEALTH
REGISTRY OF VITAL RECORDS AND STATISTICS
CERTIFICATE OF MARRIAGE

(Name last, first, middle)
BOSTON
(City or town making return)
Registered No. 2038
Initiation No. 2125

1 Place of Marriage Boston 2 Date of Marriage Aug 16 2003
(City or town) (Month) (Day) (Year)

3 FULL NAME GROOM MAURICIO ANTONIO FUENTES 12 FULL NAME BRIDE GLADYS MARIA FELICIANO
3A SURNAME AFTER MARRIAGE FUENTES 12A SURNAME AFTER MARRIAGE FUENTES
4 DATE OF BIRTH AUG 26 1982 5 OCCUPATION CASHIER 13 DATE OF BIRTH AUG 4 1983 14 OCCUPATION BIRTH REGISTRAR
6 RESIDENCE NO. & ST. 72 ELM ST # 3 15 RESIDENCE NO. & ST. 962 PARKER ST # 285
CITY/TOWN CAMBRIDGE ST. MA ZIP CODE 02141 CITY/TOWN BOSTON ST. MA ZIP CODE 02141
7 NUMBER OF MARRIAGE (1st, 2nd, 3rd, etc.) 1ST 8 WIDOWED OR DIVORCED --- 16 NUMBER OF MARRIAGE (1st, 2nd, 3rd, etc.) 1ST 17 WIDOWED OR DIVORCED ---
9 BIRTHPLACE SAN SALVADOR EL SALVADOR 18 BIRTHPLACE BOSTON MA
(City or town) (State or country) (City or town) (State or country)
10 MARDEN NAME OF MOTHER ANA PATRICIA DERAS 19 MARDEN NAME OF MOTHER BRUNILDA RAMOS
11 NAME OF FATHER MORRIS ALVARENGA 20 NAME OF FATHER HECTOR LUIS FELICIANO

21 THE INTENTION OF MARRIAGE by the above-named persons was duly entered by me in the records of the Community of BOSTON according to law this 24TH day of JULY 2003
☐ COURT WAIVER issued JUL 31 2003 by Judith A. McElarthy
☐ AGE ORDER (Month) (Day) (Year) (City or town Clerk or Registrar)

22 I HEREBY CERTIFY that I solemnized the marriage of the above-named persons at No. 280 South Boston on August 16 2003
(Place of city or town) (Month) (Day) (Year)
Signature Mary M. (Mink) Graneley Justice of the Peace
(Print or type name) (Member of the Clergy, Police, Notary, Justice, or Justice of the Peace, etc.)
Address 41 Maryland St. Somerville, MA 02145

23 Certificate recorded by city or town clerk (Month) (Day) (Year) AUG 20 2003 Judith A. McElarthy
CLERK OR REGISTRAR

I further hereby certify that by annexation, the Records of the following-named cities and towns are in the custody of the City Registrar of Boston:—

ANNEXED
East Boston1637
South Boston1804
Roxbury1868
Dorchester1870
Charlestown }1874
Brighton }
West Roxbury }
Hyde Park1912

X1045

WITNESS my hand and the SEAL of the CITY REGISTRAR

SEP 10 2003

on this Day of A.D.

Judith A. McElarthy

City Registrar

By Chapter 314 of the Acts of 1892, "the certificates or attestations of the Assistant City Registrars shall have the same force and effect as that of the City Registrar."

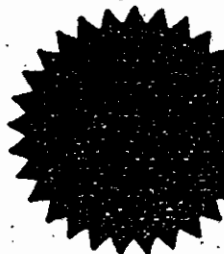


Exhibit 2

DEFENDANT NAME AND ADDRESS MAURICIO A FUENTES 116 SPRING ST W ROXBURY, MA 02132 <i>0306R0801</i>	DOB 08/26/1982	GENDER MALE	COURT NAME AND ADDRESS WEST ROXBURY DISTRICT COURT 445 ARBORWAY JAMAICA PLAIN, MA 02130-3688 (617)971-1200
	DATE COMPLAINT ISSUED 12/22/2003		
	PRECOMPLAINT ARREST DATE 12/21/2003		INTERPRETER REQUIRED

FIRST FIVE OFFENSE COUNTS

COUNT	CODE	OFFENSE DESCRIPTION	OFFENSE DATE
1	265/15A/A	A&B WITH DANGEROUS WEAPON c265 §15A(b)	12/21/2003

2/23/14 Off by MacLean. 2/26/04 atty mullen appt

DEFENSE ATTORNEY <i>Perry</i>	OFFENSE CITY/TOWN ROSLINDALE	POLICE DEPARTMENT BOSTON P.D. - AREA E-
DATE & JUDGE <i>Ruf0 12-22-03</i>	DOCKET ENTRY <input checked="" type="checkbox"/> Attorney appointed (SJC R. 3:10) <input type="checkbox"/> Atty denied & Deft. Advised per 211 D §2A <input type="checkbox"/> Waiver of Counsel found after colloquy	DATE & JUDGE <i>Ruf0 12-22-03</i>
	Terms of release set: <input type="checkbox"/> PR <input checked="" type="checkbox"/> Bail <i>5000</i> <input type="checkbox"/> See Docket for special conditions <input type="checkbox"/> Held (276 §58A) <i>abide by mms R08</i>	FEES IMPOSED Legal Counsel Fee (211D §2A(2)) \$ <i>50/1015</i> <input type="checkbox"/> WAF Legal Counsel Contribution (211D §2) \$ <input type="checkbox"/> WAF Default Warrant Assessment Fee (276 §30(2)) \$ <input type="checkbox"/> WAF Default Warrant Removal Fee (276 §30(1)) \$ <input type="checkbox"/> WAF Probation Supervision Fee (276 §37A) \$ <i>65/mo</i> <input type="checkbox"/> WAF Bail Order Forfeited
<i>Ruf0 12-22-03</i>	Arraigned and advised: <input checked="" type="checkbox"/> Potential of bail revocation (276 §58) <input checked="" type="checkbox"/> Right to bail to review (276 §58) <input type="checkbox"/> Right to drug exam (111E §10)	<i>11/4/04 Ruf0</i>
	Advised of right to jury trial <input type="checkbox"/> Waiver of jury found after colloquy <input type="checkbox"/> Does not waive	
	Advised of trial rights as pro se (Dist. Ct. Supp.R.4)	
	Advised of right of appeal to Appeals Ct. (M.R. Crim P.R. 28)	

SCHEDULING HISTORY

NO.	SCHEDULED DATE	EVENT	RESULT	JUDGE	TAPE START/STC
1	12/22/2003	ARR	<input type="checkbox"/> Held <input type="checkbox"/> Cont'd <i>Mat + MAC ruled TS</i>		
2	<i>1-9-04</i>	<i>PTH</i>	<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
3	<i>7-8-05</i>	<i>Ruf0</i>	<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
4	<i>2-26-04</i>	<i>Ruf0</i>	<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
5	<i>3-15-04</i>	<i>Ruf0</i>	<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
6			<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
7			<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
8			<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
9			<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		
10			<input type="checkbox"/> Held <input type="checkbox"/> Cont'd		

APPROVED ABBREVIATIONS

ARR = Arraignment PT = Pretrial hearing CE = Discovery compliance & jury selection T = Bench trial JT = Jury trial PC = Probable cause hearing M = Motion hearing SR = Status review
 SRP = Status review of payments FA = First appearance in jury session S = Sentencing CW = Continuance-without-finding scheduled to terminate P = Probation scheduled to terminate
 DFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WR = Warrant or default warrant recalled PV = probation violation hearing

A TRUE COPY ATTEST:	CLERK-MAGISTRATE / ASST CLERK <i>X</i>	TOTAL NO. OF PAGES	ON (DATE)
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Exhibit 3

THE UNITED STATES OF AMERICA

RECEIPT NUMBER EAC-05-027-54154		CASE TYPE I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN
RECEIVED DATE November 8, 2004	PRIORITY DATE	PETITIONER FUENTES, GLADYS L.
NOTICE DATE November 8, 2004	PAGE 1 of 1	BENEFICIARY A78 634 062 ALVARENGA, MAURICIO A.
EDUARDO MASFERRER 6 BEACON STREET SUITE 720 BOSTON MA 02108		Notice Type: Receipt Notice Amount received: \$ 185.00 Section: Husband or wife of U.S. Citizen, 201(b) INA
<p>Receipt notice - If any of the above information is incorrect, call customer service immediately.</p> <p>Processing time - Processing times vary by kind of case.</p> <ul style="list-style-type: none">- You can check our current processing time for this kind of case on our website at uscis.gov.- On our website you can also sign up to get free e-mail updates as we complete key processing steps on this case.- Most of the time your case is pending the processing status will not change because we will be working on others filed earlier.- We will notify you by mail when we make a decision on this case, or if we need something from you.- If you move while this case is pending, call customer service when you move.- Processing times can change. If you don't get a decision or update from us within our current processing time, check our website or call for an update. <p>If you have questions, check our website or call customer service. Please save this notice, and have it with you if you contact us about this case.</p> <p>Notice to all customers with a pending I-130 petition - USCIS is not processing Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 relative petition is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. This process will allow USCIS to concentrate resources first on cases where visas are actually available. This process should not delay the ability of one's relative to apply for an immigrant visa or adjustment of status. Refer to www.state.gov/travel <http://www.state.gov/travel> to determine current visa availability dates. For more information, please visit our website at www.uscis.gov or contact us at 1-800-375-5283.</p> <p>Always remember to call customer service if you move while your case is pending. If you have a pending I-130 relative petition, also call customer service if you should decide to withdraw your petition or if you become a U.S. citizen.</p>		

Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION & NATURALIZATION SERVICE
VERMONT SERVICE CENTER
75 LOWER WELDEN STREET
SAINT ALBANS VT 05479-0001
Customer Service Telephone: (800) 375-5283



Exhibit 4



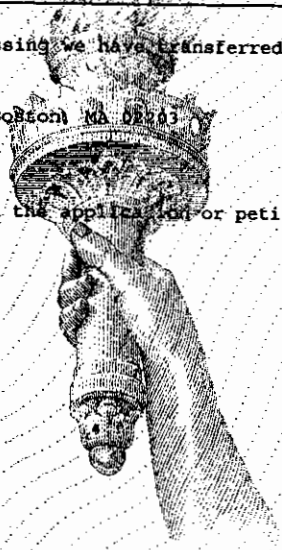
RECEIPT NUMBER EAC-05-027-54154		CASE TYPE I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN
RECEIPT DATE November 8, 2004	PRIORITY DATE	PETITIONER FUENTES, GLADYS L.
NOTICE DATE November 30, 2004	PAGE 1 of 1	
EDUARDO MASFERRER 6 BEACON STREET SUITE 720 BOSTON MA 02108		Notice Type: Transfer Notice

This is to advise you that in order to speed processing we have transferred the above case to the following INS office for processing:

Room E125, John F. Kennedy Federal Bldg., Boston, MA 02203

Telephone: (617) 565-3879

That office will notify you of the decision made on the application or petition. Any further inquiries should be made to that office.



Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION & NATURALIZATION SERVICE
VERMONT SERVICE CENTER
75 LOWER WELDEN STREET
SAINT ALBANS VT 05479-0001
Customer Service Telephone: (800) 375-5283



Exhibit 5

Kojak's Reconditioning
371 Washington Street
Newton, MA 01165
(508) 584-5293

3/30/04

Re: Mauricio Fuentes

To Whom It May Concern:

I am the owner of Kojak's Reconditioning. This letter is to inform you that Mauricio Fuentes, 20 Otis Street #2, Somerville MA 02145, has a job available to him in my place of employment cleaning autos. If you have any questions, please feel free to call me at (508) 584-5293 or (508) 243-2599. Thank you.

Sincerely,

3/30/04
Ligia T. Kelly
LIGIA T. KELLY
NOTARY PUBLIC
MY COMMISSION EXPIRES
OCTOBER 8, 2004

Appendix

1. Decision of the Board of Immigration Appeals
2. Decision of the Immigration Judge
3. U.S. Citizenship and Immigration Services Public Notice
4. U.S. Citizenship and Immigration Services Vermont Service Center Processing Dates Posted June 09, 2005
5. Letter from Counsel to U.S. Citizenship and Immigration Services, February 24, 2005.

Falls Church, Virginia 22041

File: A78-634-062 - Boston

Date:

MAY 23 2005

In re: ALVARENGA MAURICIO ANTONIO a.k.a. Mauricio Fuentes

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Masferrer, Eduardo, Esquire

ORDER:

PER CURIAM. The respondent has appealed from the Immigration Judge's decision dated November 10, 2004. We agree with the Immigration Judge's determination that the respondent is removable as charged (I.J. at 1-2; Exh. 1). Further, notwithstanding the respondent's argument on appeal (Respondent's Br. at 2-4), we find that the Immigration Judge correctly denied the respondent's request for a continuance (Tr. at 41-42). We have held that an Immigration Judge's refusal to continue a hearing until a visa number becomes available was proper because an Immigration Judge may neither terminate nor indefinitely adjourn the proceedings in order to delay an alien's deportation. See *Matter of Quintero*, 18 I&N Dec. 348, 350 (BIA 1982) (stating that an Immigration Judge's province does not include reviewing the district director's wisdom, but he or she must execute the duty of determining whether deportability is sustained by the evidence). An Immigration Judge also has a duty to determine deportability in an expeditious manner. See *id.*; see also 8 C.F.R. § 1239.2(f) (2004). In addition, although we have previously carved out an exception to the general rule that aliens in proceedings are not accorded continuances for the resolution of a visa petition, the Department of Homeland Security in this matter has expressed its opposition to a continuance (Tr. at 38). See *Matter of Velarde-Pacheco*, 23 I&N Dec. 253 (BIA 2002). Moreover, notwithstanding that *Matter of Velarde-Pacheco*, *supra*, was decided in the motion context, the respondent here has made no attempt to abide by the exception carved out therein. Based on the foregoing, we affirm the Immigration Judge's decision finding that the respondent failed to establish *prima facie* eligibility for the relief requested. Accordingly, the appeal is dismissed.



FOR THE BOARD

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
Boston, Massachusetts

File A 78 634 062

November 10, 2004

In the Matter of

MAURICIO ANTONIO ALVARENGA,

Respondent

)
)
)
)

IN REMOVAL PROCEEDINGS

CHARGE: Section 237(a)(2)(e)(i) of the Immigration Nationality
Act, Domestic Violence Conviction

APPLICATION: Adjustment of Status

ON BEHALF OF RESPONDENT:

Eduardo Massford, Esquire

ON BEHALF OF DHS:

William Richards, Esquire

ORAL DECISION OF THE IMMIGRATION JUDGE

Respondent is a native citizen of El Salvador. The respondent through counsel admitted allegations for in the Notice to Appear and denied the record of conviction and denied as well removability. The court upon a careful review of the respondents admissions as well as the police report evidence that group Exhibit 3 of the record of proceedings finds by clear and convincing evidence that the government has sustained the charges

SMR

of removeability and the Court finds by clear and convincing unequivocal evidence that the respondent is removable. The respondent wishes to adjust his status, however, he has not received an approved visa of petition at this point so that really appears to be speculative at this point. The respondent does not appear to have any other forms of relief available to him except perhaps voluntary departure. The court notes that given the respondent's criminal record, the court would not be inclined to grant voluntary departure as a matter of discretion.

Accordingly, the court orders the respondents removal to the country of El Salvador.

ORDERED

IT IS HEREBY ORDERED, that the respondent be removed to the country of El Salvador.

PAUL M. GAGNON
Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding before
PAUL M. GAGNON in the matter of:

MAURICIO ANTONIO ALVARENGA

A 78 634 062

Boston, Massachusetts

was held as herein appears, and that this is the original
transcript thereof for the file of the Executive Office for
Immigration Review.

Sharon Ricks
Sharon R. Ricks (Transcriber)

Deposition Services, Inc.
6245 Executive Boulevard
Rockville, Maryland 20852
(301) 881-3344

February 11, 2005

Principal Office
U.S. Department of Homeland Security



U.S. Citizenship
and Immigration
Services

Public Notice

July 15, 2004

NOTICE TO ALL CUSTOMERS WITH A PENDING I-130 PETITION

Washington, D.C.— USCIS is now processing Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 relative petition is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident. This process will allow USCIS to concentrate resources first on cases where visas are actually available. This process should not delay the ability of one's relative to apply for an immigrant visa or adjustment of status. Refer to www.state.gov/travel to determine current visa availability dates.

- If you filed an I-130 petition that is currently pending with USCIS, please be advised that USCIS will adjudicate your petition based upon visa availability which means that the estimated processing time listed on your receipt notice may no longer be accurate.
- If you are a U.S. Citizen or lawful permanent resident and plan to file a petition for a qualifying relative, you are encouraged to file as soon as you are eligible in order to establish your relatives place in line even if the petition may not be decided for some time to come. Upon filing, USCIS will send you a receipt that will establish a place in line for a visa called a "priority date". USCIS will adjudicate your Form I-130 prior to visa availability (or within six months if a visa is immediately available upon filing).

For more information, please visit our website at www.uscis.gov or contact us at 1-800-375-5283.

- USCIS -

On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing our nation's security.

U.S. Citizenship and Immigration Services

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U.S. Citizenship and Immigration Services Vermont Service Center Processing Dates Posted June 09, 2005

The U.S. Citizenship and Immigration Services processes cases in the order in which they are received. Due to the high workload, most of the time your case is pending we will be processing cases that were filed earlier than yours. This chart tells you which cases the Service Center is processing and the date the cases were received by the Service Center.

How do I use this chart?

Locate the type of application or petition you filed under the heading "Form" or "Form Name". Follow the form/form name across to the heading "Processing Cases with Receipt Date of". The date shown in this column represents the filing date of the application or petition that is currently being processed at this Service Center.

When Can I Call The National Customer Service Center?

If you filed your case 30 days or more before the date shown under the heading "Processing Cases with Receipt Date of" and you have not received a request for evidence, a decision, or another notice in the last thirty days, please call our National Customer Service Center at 1-800-375-5283.

If you received a request for evidence and you responded more than 60 days ago and have not received a decision, please call our National Customer Service Center at 1-800-375-5283.

If you have filed any of the following forms and the indicated times have passed, please call our National Customer Service Center at 1-800-375-5283.

Form EOIR-29: If you filed more than 60 days ago and you need to confirm that your case was sent to the Board of Immigration Appeals.

Form I-290A, Motion to Reopen or Reconsider: If you filed more than 6 months ago and you have not received a reply.

Form I-290B, Notice of Appeal to the Administrative Appeals Unit:

Initial receipt and preliminary processing: If you filed more than 60 days ago (from the date of receipt by the Service Center), and you need to confirm that your case was sent to the Administrative Appeals Office.

Remands and sustained decisions: If it has been more than 60 days since the date the Administrative Appeals Office notified you in writing that it remanded (sent your case back) to the Service Center or sustained the decision (decided in your favor), and you have not received a response from the Service Center.

Waiver of the 2-Year Foreign Residence Requirement (For waiver applications that DO NOT require Form I-612). This includes waivers based on No Objection Statements, Interested Government Agency requests, and State Health Department requests. If the Department of State's Waiver Review Division sent the favorable waiver recommendation to the Service Center more than 60 days ago, and you have not received a response from the Service Center.

Service Center Processing Dates for Vermont Posted June 09, 2005

Form	Title	Classification or Basis for Filing	Now Processing Cases with Receipt Notice Date of
I-90	Application to Replace Permanent Resident Card	Initial issuance or replacement	April 02, 2005
I-90A	Application to Replace Permanent Resident Card	Initial issuance or replacement for Special Agricultural Workers (SAW)	April 02, 2005
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	Initial issuance or replacement of a Form I-94	April 23, 2005
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Visa to be issued abroad	April 16, 2005
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Change of status in the	April 16, 2005

		U.S.	
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Extension of stay in the U.S.	April 30, 2005
I-129	Petition for A Nonimmigrant Worker	H-1C - Nurses	April 25, 2005
I-129	Petition for A Nonimmigrant Worker	H-2A - Temporary workers	May 07, 2005
I-129	Petition for A Nonimmigrant Worker	H-2B - Other temporary workers	May 28, 2005
I-129	Petition for A Nonimmigrant Worker	H-3 - Temporary trainees	May 30, 2005
I-129	Petition for A Nonimmigrant Worker	L - Intracompany transfers	May 07, 2005
I-129	Petition for A Nonimmigrant Worker	Blanket L	May 07, 2005
I-129	Petition for A Nonimmigrant Worker	O - Extraordinary ability	May 07, 2005
I-129	Petition for A Nonimmigrant Worker	P - Athletes, artists, and entertainers	May 07, 2005
I-129	Petition for A Nonimmigrant Worker	Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process	May 30, 2005
I-129	Petition for A Nonimmigrant Worker	R - Religious occupation	May 30, 2005
I-129F	Petition for Alien Fiance(e)	K-1/K-2 - Not yet married - fiance and/or dependent child	May 14, 2005
I-130	Petition for Alien Relative	U.S. citizen filing for a spouse, parent, or child under 21	April 02, 2005
I-130	Petition for Alien Relative	U.S. citizen filing for an unmarried son or daughter over 21	January 15, 2002
I-130	Petition for Alien Relative	U.S. citizen filing for a married son or daughter over 21	February 26, 2000
I-130	Petition for Alien Relative	U.S. citizen filing for a brother or sister	September 24, 1999
I-130	Petition for Alien Relative	Permanent resident filling for a spouse or child under 21	January 15, 2002
I-130	Petition for Alien Relative	Permanent resident filling for an unmarried son or daughter over 21	April 30, 2001
I-131	Application for Travel Document	All other applicants for advance parole	April 23, 2005
I-140	Immigrant Petition for Alien Worker	Extraordinary ability	January 15, 2005
I-140	Immigrant Petition for Alien Worker	Outstanding professor or researcher	February 05, 2005
I-140	Immigrant Petition for Alien Worker	Multinational executive or manager	November 18, 2004
I-140	Immigrant Petition for Alien Worker	Schedule A Nurses	March 19, 2005
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability	February 12, 2005
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability requesting a National Interest Waiver	February 26, 2005
I-140	Immigrant Petition for Alien Worker	Skilled worker or professional	March 19, 2005
I-140	Immigrant Petition for Alien Worker	Unskilled worker	March 19, 2005
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal	Readmission after deportation or removal	March 12, 2005
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	International broadcasters	February 26, 2005
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	Religious workers	February 26, 2005
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	Violence Against Women Act (VAWA)	January 29, 2005
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	All other special immigrants	February 26, 2005
	Application to Register Permanent Residence		

I-485	or to Adjust Status	Employment-based adjustment applications	July 22, 2004
I-539	Application to Extend/Change Nonimmigrant Status	Change of status to H or L dependents	April 30, 2005
I-539	Application to Extend/Change Nonimmigrant Status	Change status to the F or M academic or vocational student categories	April 23, 2005
I-539	Application to Extend/Change Nonimmigrant Status	Change Status to the J exchange visitor category	April 23, 2005
I-539	Application to Extend/Change Nonimmigrant Status	All other change of status applications	April 30, 2005
I-539	Application to Extend/Change Nonimmigrant Status	Extension of stay for H and L dependents	April 30, 2005
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for F or M academic or vocational students	April 23, 2005
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for J exchange visitors	April 23, 2005
I-539	Application to Extend/Change Nonimmigrant Status	All other extension applications	April 30, 2005
I-612	Application for Waiver of the Foreign Residence Requirement	Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution	March 12, 2005
I-751	Petition to Remove the Conditions on Residence	Removal of lawful permanent resident conditions (spouses of U.S. citizens and lawful permanent residents)	January 01, 2005
I-765	Application for Employment Authorization	Based on a request by a qualified F-1 academic student. [(c)(3)]	May 09, 2005
I-765	Application for Employment Authorization	Based on a pending asylum application [(c)(8)]	May 07, 2005
I-765	Application for Employment Authorization	Based on a pending I-485 adjustment application [(c)(9)]	April 23, 2005
I-765	Application for Employment Authorization	Based on TPS for Honduras/Nicaragua [(c)(19), (a)(12)]	March 04, 2005
I-765	Application for Employment Authorization	Based on TPS for El Salvador [(c)(19)(a)(12)]	April 26, 2005
I-765	Application for Employment Authorization	All other applications for employment authorization	April 30, 2005
I-817	Application for Family Unity Benefits	Voluntary departure under the family unity program	March 28, 2005
I-821	Application for Temporary Protected Status	El Salvador initial or late filing	May 19, 2005
I-821	Application for Temporary Protected Status	El Salvador extension	April 26, 2005
I-821	Application for Temporary Protected Status	Honduras and Nicaragua initial or late filing	March 04, 2005
I-821	Application for Temporary Protected Status	Honduras and Nicaragua extension	May 26, 2005
I-824	Application for Action on an Approved Application or Petition	To request further action on an approved application or petition	April 02, 2005
N-600	Application for Certification of Citizenship	Application for recognition of U.S. citizenship	February 26, 2005
N-643	Application for Certification of Citizenship on Behalf of an Adopted Child	Application for recognition of U.S. citizenship on behalf of an adopted child	May 30, 2005

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06-20-2005 04:02 PM EDT

MASFERRER | HUROWITZ, P.C.
ATTORNEYS AT LAW
6 BEACON STREET, SUITE 720 BOSTON, MA 02108
(617) 531-0135 (617) 531-0136 (f)

EDUARDO A. MASFERRER
STUART M. HUROWITZ
KAREN L. SWENSON

February 24, 2005

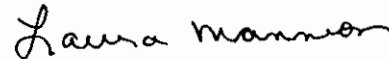
DHS
USCIS
Room E125
JFK Federal Bldg.
Boston, MA 02203

Re: EAC-05-027-54154

To Whom It May Concern:

On November 30, 2004 my office received the enclosed notice regarding the above referenced receipt number for an I-130 petition for an alien relative. I understand that the petition has been transferred to your office in order to expedite processing. However, three months have passed with no response regarding the approval or denial of the petition. I am writing to request an update as to the status of the case. Kindly call this office and ask for Laura Mannion or write. Thank you for your time and assistance.

Sincerely,



for Eduardo Masferrer

Certificate of Service

On June 30, 2005, I, Eduardo Masferrer, mailed a copy of this Petition for Writ of Mandamus, Exhibits and Appendix by regular mail to:

Denis Riordan
District Director, United States Citizenship and Immigration Service
Boston District Office
John F. Kennedy Federal Building
Government Center
Boston, MA 02203

Eduardo Aguirre, Jr.,
Director, United States Citizenship and Immigration Service
c/o Office of the General Counsel
United States Department of Homeland Security
Washington, D.C. 20258

Michael Chertoff
Secretary, Department of Homeland Security
c/o Office of the General Counsel
United States Department of Homeland Security
Washington, D.C. 20258

Dated: June 29, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Masferrer', is written over a horizontal line.

Eduardo Masferrer
Masferrer & Hurowitz, PC
6 Beacon Street, Suit 720
Boston, Massachusetts 02108
(617) 531-0135

Attorney for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) ALVAREZGA V. REG. RIGORDAN

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660,
690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME EDUARDO MASFERRERADDRESS MAFERRER & HURWITZ 6 Beacon Street Boston, MA 02108TELEPHONE NO. 617-531-0135

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MAURICIO ANTONIO ALVAREZ-GA
Gladys Fuentes

(b) County of Residence of First Listed Plaintiff Suffolk
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

MASFERRE S. HERNANDEZ (617) 531-0135
 6 Beacon St. Suite 220 Boston, MA 02108

DEFENDANTS

Dennis Riordan, Eduardo Aguirre, Michael Chertoff

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | |
|---|---------------------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input checked="" type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC § 1301

Brief description of cause:

Rebbon of Will of MANDAMUS

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

6/30/05
 FOR OFFICE USE ONLY

[Signature] for EDUARDO MASFERRE

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE